

Article 27.

Regional Transportation Authority.

§ 160A-630. Title.

This Article shall be known and may be cited as the "Regional Transportation Authority Act." (1997-393, s. 1.)

§ 160A-631. Definitions.

As used in this Article, unless the context otherwise requires:

- (1) "Authority" means a Regional Transportation Authority as defined by subdivision (6) of this section.
- (2) "Board of Trustees" means the governing board of the Authority, in which the general legislative powers of the Authority are vested.
- (3) "Population" means the number of persons residing in respective areas as defined and enumerated in the most recent decennial federal census.
- (4) "Public transportation" means transportation of passengers whether or not for hire by any means of conveyance, including, but not limited to, a street or elevated railway or guideway, subway, motor vehicle or motor bus, carpool or vanpool, either publicly or privately owned and operated, holding itself out to the general public for the transportation of persons within or working within the territorial jurisdiction of the Authority, excluding charter, tour, or sight-seeing service.
- (5) "Public transportation system" means, without limitation, a combination of real and personal property, structures, improvements, buildings, equipment, vehicle parking, or other facilities, railroads and railroad rights-of-way whether held in fee simple by quitclaim or easement, and rights-of-way, or any combination thereof, used or useful for the purposes of public transportation. "Public transportation system" however, does not include streets, roads, or highways except those for ingress and egress to vehicle parking.
- (6) "Regional Transportation Authority," means a body corporate and politic organized in accordance with the provisions of this Article for the purposes, with the powers and subject to the restrictions hereinafter set forth.
- (7) "Unit of local government" means any county, city, town or municipality of this State, and any other political subdivision, public corporation, Authority, or district in this State, which is or may be authorized by law to acquire, establish, construct, enlarge, improve, maintain, own, and operate public transportation systems.
- (8) "Unit of local government's chief administrative official" means the county manager, city manager, town manager, or other person, by whatever title he shall be known, in whom the responsibility for the unit of local government's administrative duties is vested. (1997-393, s. 1.)

§ 160A-632. Definition of territorial jurisdiction of Authority.

An authority may be created for the area of any Metropolitan Planning Organization of the State that, at the time of creation of the authority, meets the following criteria, such area being the initial territorial jurisdiction of the Authority:

- (1) The area consists of all or part of five counties, all five counties of which form a contiguous territory;
- (2) At least two of those counties are contiguous to each other and each have a population of 250,000 or over; and
- (3) The other three counties each have a population of 100,000 or over. (1997-393, s. 1.)

§ 160A-633. Creation of Authority.

(a) The city councils of the four largest cities within an area for which an authority may be created as defined in G.S. 160A-632 may by resolution signify their determination to organize an authority under the provisions of this Article. Each of such resolutions shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for such hearing, in a newspaper having a general circulation in the county. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereof. No city shall be required to make any other publication of such resolution under the provisions of any other law.

(b) Each such resolution shall include articles of incorporation which shall set forth:

- (1) The name of the authority;
- (2) A statement that such authority is organized under this Article; and
- (3) The names of the four organizing cities.

(c) A certified copy of each of such resolutions signifying the determination to organize an authority under the provisions of this Article shall be filed with the Secretary of State, together with proof of publication of the notice of hearing on each of such resolutions. If the Secretary of State finds that the resolutions, including the articles of incorporation, conform to the provisions of this Article and that the notices of hearing were properly published, he shall file such resolutions and proofs of publication in his office and shall issue a certificate of incorporation under the seal of the State and shall record the same in an appropriate book of record in his office. The issuance of such certificate of incorporation by the Secretary of State shall constitute the Authority, a public body and body politic and corporate of the State of North Carolina. Said certificate of incorporation shall be conclusive evidence of the fact that such authority has been duly created and established under the provisions of this Article.

(d) When the Authority has been duly organized and its officers elected as herein provided, the secretary of the Authority shall certify to the Secretary of State the names and addresses of such officers as well as the address of the principal office of the Authority.

(e) The Authority may become a Designated Recipient pursuant to the Urban Mass Transportation Act of 1964, as amended. (1997-393, s. 1.)

§ 160A-634. Territorial jurisdiction and service area of the Authority.

(a) The territorial jurisdiction and service area of the Authority shall be as determined by the Board of Trustees consistent with its purpose, but shall initially consist of those areas included within the Metropolitan Planning Organization boundaries. With the consent by resolution of the

affected board of county commissioners, the jurisdiction and area may be expanded to include contiguous areas, but the total jurisdiction and service area shall not exceed part or all of 12 counties. The jurisdiction and area include the entire area of the county if the Board of Trustees has been expanded to include the chair or other member of the board of commissioners of that county pursuant to G.S. 160A-635(a)(4).

(b) Except as provided by this Article, the jurisdiction of the Authority may include all local public passenger transportation operating within the territorial jurisdiction of the Authority, but the Authority may not take over the operation of any existing public transportation without the consent of the owner.

(c) The Authority shall not have jurisdiction over public transportation subject to the jurisdiction of and regulated by the United States Department of Transportation, nor shall it have jurisdiction over intrastate public transportation classified as common carriers of passengers by the North Carolina Utilities Commission. (1997-393, s. 1; 1999-445, s. 1.)

§ 160A-635. Membership; officers; compensation.

(a) The governing body of an authority is the Board of Trustees. The Board of Trustees shall consist of:

- (1) The mayor of the four cities within the service area that have the largest population, or a member of the city council designated by the city council to serve in the absence of the mayor.
- (2) At least two, but not more than three, members of the Board of Transportation appointed by the Secretary of Transportation. Members appointed under this subdivision shall be (i) division members from a highway division or highway divisions located wholly or partially within the territorial jurisdiction of the Authority, (ii) at-large members who represent or have an expertise in mass transit and reside within the territorial jurisdiction of the Authority, or (iii) a combination of division members and at-large members meeting the requirements set forth in this subdivision.
- (3) The chair of each Metropolitan Planning Organization or a member of the Metropolitan Planning Organization designated by the Metropolitan Planning Organization in the territorial jurisdiction.
- (4) The chair of the board of commissioners of any county within the territorial jurisdiction or a member of the board of commissioners designated by the board to serve in the absence of the chair, but only if the Board of Trustees by resolution has expanded the Board of Trustees to include the chair of the board of commissioners of that county and the board of commissioners of that county has consented by resolution.
- (5) The chair of the principal airport authority or airport commission of each of the two most populous counties within the territorial jurisdiction, as determined by the most recent decennial federal census. The chair of the airport authority or airport commission may appoint a designee. The

designee is not required to be a member of the airport authority or airport commission.

(b) The members appointed by the Secretary of Transportation shall serve at the pleasure of the Secretary.

(c) Service on the Board of Trustees may be in addition to any other office which a person is entitled to hold. Each member of the Board of Trustees may hold elective public office as defined by G.S. 128-1.1(d).

(d) Members of the Board of Trustees shall reside within the territorial jurisdiction of the Authority as defined by G.S. 160A-634.

(e) The Board of Trustees shall annually elect from its membership a Chairperson, a Vice-Chairperson, a Secretary, and a Treasurer.

(f) Members of the Board of Trustees shall receive the sum of fifty dollars (\$50.00) as compensation for attendance at each duly conducted meeting of the Authority. (1997-393, s. 1; 1999-445, s. 2; 2004-203, s. 56; 2005-322, s. 1; 2016-54, s. 1.)

§ 160A-636. Voting; action by the Board of Trustees.

(a) Quorum. – A majority of the membership of the Board of Trustees, excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present. No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under any other provision of law.

(b) Action. – An affirmative vote equal to a majority of all the members of the Board of Trustees not excused from voting on the question in issue shall be required to authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the Authority. (1997-393, s. 1; 2016-54, s. 2.)

§ 160A-637. Advisory committees.

The Board of Trustees may provide for the selection of such advisory committees as it may find appropriate, which may or may not include members of the Board of Trustees. (1997-393, s. 1.)

§ 160A-638. Purpose of the Authority.

The purpose of the authority is to enhance the quality of life in its territorial jurisdiction by promoting the development of sound transportation systems which provide transportation choices, enhance mobility, accessibility, and safety, encourage economic development and sound growth patterns, and protect the man-made and natural environments of the region. (1997-393, s. 1.)

§ 160A-639. General powers of the Authority.

The general powers of the Authority shall include any or all of the following:

(1) To sue and be sued.

- (2) To have a seal.
- (3) To make rules and regulations, not inconsistent with this Chapter, for its organization and internal management.
- (4) To employ a chief administrative officer to carry out the functions and duties of the Authority. The Board of Trustees shall fix the compensation of the chief administrative officer and any employees hired by the chief administrative officer pursuant to G.S. 160A-639.1, within the limit of available funds.
- (5) With the approval of the unit of local government's chief administrative official, to use officers, employees, agents, and facilities of the unit of local government for such purposes and upon such terms as may be mutually agreeable.
- (6) To retain and employ counsel, auditors, engineers, and private consultants on an annual salary, contract basis, or otherwise for rendering professional or technical services and advice.
- (7) To acquire, lease as lessee with or without option to purchase, hold, own, and use any franchise, property, real or personal, tangible or intangible, or any interest therein, and to sell, lease as lessor with or without option to purchase, transfer (or dispose thereof) whenever the same is no longer required for purposes of the Authority, or exchange same for other property or rights which are useful for the Authority's purposes, including but not necessarily limited to parking facilities.
- (8) To acquire by gift, purchase, lease as lessee with or without option to purchase or otherwise to construct, improve, maintain, repair, operate, or administer any component parts of a public transportation system or to contract for the maintenance, operation or administration thereof, or to lease as lessor the same for maintenance, operation, or administration by private parties, including, but not necessarily limited to, parking facilities.
- (9) To make or enter into contracts, agreements, deeds, leases with or without option to purchase, conveyances or other instruments, including contracts and agreements with the United States, the State of North Carolina, and units of local government.
- (9a) To purchase or finance real or personal property in the manner provided for cities and counties under G.S. 160A-20.
- (10) To surrender to the State of North Carolina any property no longer required by the Authority.
- (11) To develop and make data, plans, information, surveys and studies of public transportation facilities within the territorial jurisdiction of the Authority and to prepare and make recommendations in regard thereto.
- (12) To enter in a reasonable manner lands, waters, or premises for the purpose of making surveys, soundings, drillings, and examinations whereby such entry shall not be deemed a trespass except that the Authority shall be

liable for any actual and consequential damages resulting from such entries.

- (13) To develop and carry out demonstration projects.
- (14) To make, enter into, and perform contracts with private parties, and public transportation companies with respect to the management and operation of public passenger transportation.
- (15) To make, enter into, and perform contracts with any public utility, railroad or transportation company for the joint use of property or rights, for the establishment of through routes, joint fares, or transfer of passengers.
- (16) To make, enter into, and perform agreements with governmental entities for payments to the Authority for the transportation of persons for whom the governmental entities desire transportation.
- (17) With the consent of the unit of local government which would otherwise have jurisdiction to exercise the powers enumerated in this subdivision: to issue certificates of public convenience and necessity; and to grant franchises and enter into franchise agreements, and in all respects to regulate the operation of buses, taxicabs, and other methods of public passenger transportation which originate and terminate within the territorial jurisdiction of the Authority as fully as the unit of local government is now or hereafter empowered to do within the territorial jurisdiction of the unit of local government.
- (18) To operate public transportation systems and to enter into and perform contracts to operate public transportation services and facilities, and to own or lease property, facilities and equipment necessary or convenient therefor, and to rent, lease or otherwise sell the right to do so to any person, public or private; further, to obtain grants, loans, and assistance from the United States, the State of North Carolina, any public body, or any private source whatsoever, but may not operate or contract for the operation of public transportation systems outside the territorial jurisdiction of the Authority except as provided by subdivision (20) of this section.
- (19) To enter into and perform contracts and agreements with other public transportation authorities, regional public transportation authorities, or units of local government pursuant to the provisions of G.S. 160A-460 through G.S. 160A-464 (Part 1 of Article 20 of Chapter 160A of the General Statutes); further to enter into contracts and agreements with private transportation companies, but this subdivision does not authorize the operation of, or contracting for the operation of, service of a public transportation system outside the service area of the Authority.
- (20) To operate public transportation systems extending service into any political subdivision of the State of North Carolina unless a particular unit of local government operating its own public transportation system or

franchising the operation of a public transportation system by majority vote of its governing board, shall deny consent, but such service may not extend more than 10 miles outside of the territorial jurisdiction of the authority, except that vanpool and carpool service shall not be subject to that mileage limitation.

- (21) Except as restricted by covenants in bonds, notes, or equipment trust certificates, to set in its sole discretion rates, fees, and charges for use of its public transportation system.
- (22) To do all things necessary or convenient to carry out its purpose and to exercise the powers granted to the Authority.
- (23) To facilitate the coordination of transportation plans in the service area and the activities of the member Metropolitan Planning Organizations.
- (24) To maintain databases for the projection of future travel demands in the region.
- (25) To provide and operate regional ridesharing and vanpool operations.
- (26) To provide and operate regional transportation services for the elderly and handicapped.
- (27) To provide other transportation related services, including air quality monitoring and analysis, as determined by the Board of Trustees.
- (28) To issue bonds or other obligations of the Authority as provided by law and apply the proceeds thereof to the financing of any public transportation system or any part thereof and to refund, whether or not in advance of maturity or the earliest redemption date, any such bonds or other obligations.
- (29) To contract for, or to provide and maintain, with respect to the facilities and property owned, leased with or without option to purchase, operated or under the control of the Authority, and within the territory thereof, a security force to protect persons and property, dispense unlawful or dangerous assemblages and assemblages which obstruct full and free passage, control pedestrian and vehicular traffic, and otherwise preserve and protect the public peace, health, and safety; for these purposes a member of such force shall be a peace officer and, as such, shall have authority equivalent to the authority of a police officer of the city or county in which said member of such force is discharging such duties. (1997-393, s. 1; 1998-70, s. 3; 2016-54, s. 3.)

§ 160A-639.1. Duties of the chief administrative officer; appointment of clerk.

(a) Duties. – The chief administrative officer employed by the Authority in accordance with G.S. 160A-639 shall be responsible to the Board of Trustees for administering all matters placed in his or her charge by the Board of Trustees and shall have all of the following powers and duties:

- (1) To hire, appoint, suspend, or remove any employee of the Authority, provided that nothing in this subdivision shall be construed as superseding or altering any other provision of law governing the suspension or removal of an employee of the Authority.
- (2) To direct and supervise all employees of the Authority and the administration of all departments, offices, and agencies of the Authority, subject to the general direction and control of the Board of Trustees and except as otherwise provided by law.
- (3) To attend all meetings of the Board of Trustees and recommend any measures he or she deems expedient.
- (4) To see that all laws of the State are faithfully executed.
- (5) To prepare and submit the annual budget and capital program to the Board of Trustees.
- (6) To annually submit to the Board of Trustees and make available to the public a complete report on the finances and administrative activities of the Authority as of the end of the fiscal year.
- (7) To make any other reports that the Board of Trustees may require concerning the operations of the Authority.
- (8) To perform any other duties that may be required or authorized by the Board of Trustees.

(b) Clerk. – In addition to the duties set forth in subsection (a) of this section, the chief administrative officer shall designate an employee of the Authority as clerk, whose duties shall include all of the following:

- (1) Provide notice of meetings of the Board of Trustees.
- (2) Keep a journal of the proceedings of the Board of Trustees.
- (3) Be the custodian of all Authority records.
- (4) Perform any other duties that may be required by law or the Board of Trustees. (2016-54, s. 4.)

§ 160A-640. Authority of Utilities Commission not affected.

(a) Except as otherwise provided in this Article, nothing in this Article shall be construed to limit or otherwise affect the power or authority of the North Carolina Utilities Commission or the right of appeal to the North Carolina Utilities Commission as provided by law.

(b) The North Carolina Utilities Commission shall not have jurisdiction over rates, fees, charges, routes, and schedules of an Authority for service within its territorial jurisdiction. (1997-393, s. 1.)

§ 160A-641. Fiscal accountability.

An Authority is a public authority subject to the provisions of Chapter 159 of the General Statutes. (1997-393, s. 1.)

§ 160A-642. Funds.

The establishment and operation of an Authority are governmental functions and constitute a public purpose, and the State of North Carolina and any unit of local government may appropriate funds to support the establishment and operation of the Authority. The State of North Carolina and any unit of local government may also dedicate, sell, convey, donate, or lease any of their interests in any property to the Authority. An Authority may apply for grants from the State of North Carolina, or from the United States or any department, agency, or instrumentality thereof. The Department of Transportation may allocate to an Authority any funds appropriated for transportation, or any funds whose use is not restricted by law. (1997-393, s. 1.)

§ 160A-643. Competition.

No equipment of the Authority may be used for charter, tour, or sight-seeing service. (1997-393, s. 1.)

§ 160A-644. Effect on existing franchises and operations.

Creation of the Authority shall not have an effect on any existing franchises granted by any unit of local government; such existing franchises shall continue in full force and effect until legally terminated; further, all ordinances and resolutions of the unit of local government regulating local public transportation systems, bus operations, and taxicabs shall continue in full force and effect now and in the future, unless superseded by regulations of the Authority; such superseding, if any, may occur only on the basis of prior mutual agreement between the Authority and the respective unit of local government. (1997-393, s. 1.)

§ 160A-645. Termination.

The Board of Trustees may terminate the existence of the Authority at any time when it has no outstanding indebtedness. In the event of such termination, all property and assets of the Authority not otherwise encumbered shall automatically become the property of the State of North Carolina, and the State of North Carolina shall succeed to all rights, obligations, and liabilities of the Authority. (1997-393, s. 1.)

§ 160A-646. Controlling provisions.

Insofar as the provisions of this Article are not consistent with the provisions of any other law, public or private, the provisions of this Article shall be controlling. (1997-393, s. 1.)

§ 160A-647. Bonds and notes authorized.

In addition to the powers granted by this Article, the Authority may issue bonds and notes pursuant to the provisions of The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, for the purpose of financing public transportation systems or any part thereof and to refund such bonds and notes, whether or not in advance of their maturity or earliest redemption date. (1997-393, s. 1.)

§ 160A-648. Equipment trust certificates.

In addition to the powers here and before granted, the Authority shall have continuing power to purchase equipment, and in connection therewith execute agreements, leases with or without

option to purchase, or equipment trust certificates. All money required to be paid by the Authority under the provisions of such agreements, leases with or without option to purchase, and equipment trust certificates shall be payable solely from the fares, fees, rentals, charges, revenues, and earnings of the Authority, monies derived from the sale of any surplus property of the Authority and gifts, grants, and contributions from any source whatever. Payment for such equipment or rentals therefore, may be made in installments; the deferred installments may be evidenced by equipment trust certificates payable solely from the aforesaid revenues or receipts, and title to such equipment may or may not vest in the Authority until the equipment trust certificates are paid. (1997-393, s. 1.)

§ 160A-649. Power of eminent domain.

(a) The Authority shall have continuing power to acquire, by gift, grant, devise, exchange, purchase, lease with or without option to purchase, or any other lawful method, including, but not limited to, the power of eminent domain, the fee or any lesser interest in real or personal property for use by the Authority.

(b) Exercise of the power of eminent domain by the Authority shall be in accordance with Chapter 40A of the General Statutes. (1997-393, s. 1; 2011-284, s. 122.)

§ 160A-650. Tax exemption.

The property of the Authority, both real and personal, its acts, activities, and income shall be exempt from any tax or tax obligation; in the event of any lease of Authority property, or other arrangement which amounts to a leasehold interest, to a private party, this exemption shall not apply to the value of such leasehold interest nor shall it apply to the income of the lessee. Otherwise, however, for the purpose of taxation, when property of the Authority is leased to private parties solely for the purpose of the Authority, the acts and activities of the lessee shall be considered as the acts and activities of the Authority and the exemption. The interest on bonds or obligations issued by the Authority shall be exempt from State taxes. (1997-393, s. 1.)

§ 160A-651. Removal and relocation of utility structures.

(a) The Authority shall have the power to require any public utility, railroad, or other public service corporation owning or operating any installations, structures, equipment, apparatus, appliances, or facilities in, upon, under, over, across or along any ways on which the Authority has the right to own, construct, operate, or maintain its public transportation system, to relocate such installation, structures, equipment, apparatus, appliances, or facilities from their locations, or, in the sole discretion of the affected public utility, railroad, or other public service corporation, to remove such installations, structures, equipment, apparatus, appliances, or facilities from their locations.

(b) If the owner or operator thereof fails or refuses to relocate them, the Authority may proceed to do so.

(c) The Authority shall provide any necessary new locations and necessary real estate interests for such relocation, and for that purpose the power of eminent domain as provided in G.S. 160A-649 may be exercised provided the new locations shall not be in, on or above, a public highway; the Authority may also acquire the necessary new locations by purchase or otherwise.

(d) Any affected public utility, railroad, or other public service corporation shall be compensated for any real estate interest taken in a manner consistent with G.S. 160A-649, subject to the right of the Authority to reduce the compensation due by the value of any property exchanged under this section.

(e) The method and procedures of a particular adjustment to the facilities of a public utility, railroad, or other public service corporation shall be covered by an agreement between the Authority and the affected party or parties.

(f) The Authority shall reimburse the public utility, railroad, or other public service corporation, for the cost of relocations or removals which shall be the entire amount paid or incurred by the utility properly attributable thereto after deducting the cost of any increase in the service capacity of the new installations, structures, equipment, apparatus, appliances, or facilities and any salvage value derived from the old installations, structures, equipment, apparatus or appliances. (1997-393, s. 1.)

§§ 160A-652 through 160A-659. Reserved for future codification purposes.